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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH

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UNITED STATES OF AMERICA,  Plaintiff,  v.  SILVIO McKENZIE-GAINZA,  Defendant.	MEMORANDUM DECISION AND ORDER DEYING WITHOUT PREJUDICE REQUEST FOR DOCKET SHEET  Case No. 2:17-CR-335 TS  District Judge Ted Stewart
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This matter is before the Court on Defendant's Request for Docket Sheet, Discoveries, PSI, and Copy of any and all Motions Filed on Petitioner's Behalf Till Date. 28 U.S.C. § 753(f) provides that transcripts must be provided at the expense of the United States in certain circumstances. "Under 28 U.S.C. § 753(f), an indigent defendant is entitled to have the government pay the fees for a copy of his transcript . . . only if he demonstrates that his suit is not frivolous and that the transcript is needed to decide the issue presented by the suit."<sup>1</sup> The Tenth Circuit has applied this standard to documents other than transcripts.<sup>2</sup> Defendant has failed to make the required showing. Therefore, the Court must deny Defendant's request. The

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<sup>1</sup> *Sistrunk v. United States*, 992 F.2d 258, 259 (10th Cir. 1993); *see also* 28 U.S.C. § 753(f) ("Fees for transcripts furnished in proceedings brought under section 2255 of this title to persons permitted to sue or appeal in forma pauperis shall be paid by the United States out of money appropriated for that purpose if the trial judge or a circuit judge certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal").

<sup>2</sup> See *Nortonsen v. Larimer Cty. Dist. Court*, 178 F. App'x 783, 783 (10th Cir. 2006); *United States v. Lewis*, 37 F.3d 1510 (10th Cir. 1994) (unpublished table decision).

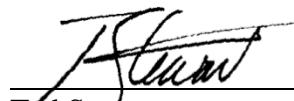
Court will do so without prejudice to allow Defendant the opportunity to make the proper showing.

It is therefore

ORDERED that Defendant's Request for Docket Sheet, Discoveries, PSI, and Copy of any and all Motions Filed on Petitioner's Behalf Till Date (Docket No. 956) is DENIED WITHOUT PREJUDICE.

DATED this 8th day of February, 2021.

BY THE COURT:



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Ted Stewart  
United States District Judge